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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Expert group meeting on children and juveniles in detention: application of human rights standards

(Vienna, 30 October - 4 November 1994)

Report of the Secretary-General pursuant to Commission on Human Rights resolution 1993/80

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Introduction

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities has considered the matter of the administration of juvenile justice since 1985. Through its resolutions 1985/19, 1989/31, 1990/21 and 1991/16 the Sub-Commission requested the Secretary-General to address appropriate inquiries to Governments, United Nations organs, specialized agencies and non-governmental organizations on the implementation of the international standards on detained juveniles. By its resolution 1989/31 the Sub-Commission also decided to appoint the late Ms. Mary Concepción Bautista as Special Rapporteur on the application of the international standards concerning the human rights of detained juveniles, in particular the separation of juvenile and adult offenders in penal institutions, detention pending trial, least possible use of institutionalization and the objectives of institutional treatment. In 1990 the Secretary-General prepared a comprehensive questionnaire on the application of international standards concerning juvenile justice, the results of which are reported in documents E/CN.4/Sub.2/1991/24 and E/CN.4/Sub.2/1992/20. Information provided by non-governmental organizations were submitted to the Sub-Commission in document E/CN.4/Sub.2/1991/50.

2. In resolution 1991/16, the Sub-Commission requested the Secretary-General to explore the feasibility of organizing a meeting of experts under the auspices of the Centre for Human Rights, the United Nations Children's Fund and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs on the application of international standards concerning the human rights of detained juveniles in order that the results of the meeting might be used by the Special Rapporteur in the preparation of the updated report.

3. At its forty-fourth session, the Sub-Commission, in its resolution 1992/25, welcomed the proposal by the Secretary-General (see E/CN.4/Sub.2/1992/20/Add.1, to organize the above-mentioned meeting in March 1993.

4. By its resolution 1993/80, the Commission on Human Rights also welcomed the proposal by the Secretary-General and requested him to report on the results of the meeting at its fifty-first session.

5. In its decision 1993/280, the Economic and Social Council gave its approval to this initiative.

6. It should also be noted that at its forty-sixth session the Sub-Commission adopted resolution 1994/9 entitled "Situation of children deprived of their liberty" in which, inter alia, it requested the Secretary-General to submit to the Sub-Commission at its forty-seventh session a note on the situation of children deprived of their liberty under the agenda sub-item entitled "Prevention of discrimination and protection of children: Human rights and youth".

7. In its resolution 1992/22, the Economic and Social Council determined that, inter alia, efficiency, fairness and improvement in the management and administration of criminal justice and related systems, as well as crime prevention in urban areas, juvenile and violent criminality should be priority themes in the work of the Commission on Crime Prevention and Criminal Justice for the period 1992-1996.

8. The Economic and Social Council, in its resolution 1993/34 reaffirmed the importance of United Nations standards and norms in crime prevention and criminal justice and requested the Secretary-General to strengthen and coordinate activities in the field of their implementation.

9. In its resolution 1994/18, the Council reaffirmed the important contribution that the use and application of United Nations standards and norms in crime prevention and criminal justice make to criminal justice systems and stressed the need for further coordination and concerted action in translating them into practice.

10. In response to an offer from the Government of Austria, the meeting was convened at the Vienna International Centre from 30 October to 4 November 1994. It was attended by experts in the field, as well as representatives of United Nations bodies and interested non-governmental organizations.

I. ORGANIZATION OF WORK

11. At the opening session of the expert meeting on children and juveniles in detention: application of human rights standards the following persons spoke: Mr. N. Jasentuliwana (on behalf of Mr. G. Giacomelli, Director-General of the United Nations Office at Vienna); Mrs. M. Rauch-Kallat, Austrian Minister for Environment, Youth and Family; Mr. A. Grubmaier (on behalf of Mr. A. Mock, Austrian Minister for Foreign Affairs); Mrs. M. Santos Pais, Rapporteur of the Committee on the Rights of the Child; Mr. H. Gaham, Chief of the Legislation Branch of the United Nations Centre for Human Rights; and Mr. B. Lindblad, UNICEF Senior Adviser on Children in Especially Difficult Circumstances.

12. The subject-matter of the meeting was introduced by Professor H. Schüler-Springorum of the University of Munich, who was invited to chair. The speaker, noting that the programme of the meeting covered much more than the issue of children and juveniles in detention and the application of human rights standards, pointed out the importance of United Nations activities, in particular those of the Crime Prevention and Criminal Justice Branch, concerning social problems caused by the behaviour, criminal or not, of young people. Professor Schüler-Springorum also drew attention to matters relating to the victimization of children and the effective implementation of United Nations instruments to address matters affecting children.

13. An informal drafting committee was set up in order to prepare the section of the final report devoted to the recommendations and conclusions of the meeting. The recommendations and conclusions, as amended by the plenary, were adopted on 4 November 1994.

14. The following programme of work was adopted for the meeting:

1. Child Exploitation: children as instruments and victims of crime:

(a) Violence against children, including the sale of children, child pornography and child prostitution;

(b) Instrumental use of juveniles for criminal activities.

2. Standards:

(a) Standards concerning children in conflict with the law;

(b) Main issues concerning children in detention.

3. Implementation of United Nations standards and norms:

(a) Legislation and practice;

(b) Alternative models;

(c) Raising of awareness and advocacy.

II. CHILD EXPLOITATION: CHILDREN AS INSTRUMENTS AND VICTIMS OF CRIME

A. Violence against children, including the sale of children, child pornography and child prostitution

15. Mr. Vitit Muntarbhorn (Executive Director, Child Rights Asia), opened the discussion. He affirmed that violence against children was both a root cause and a result of child abuse, neglect and exploitation, and the key perpetrators in that vicious circle could include, among others, the State, the community, the private sector and criminal networks. The speaker identified seven issues which marked the growing globalization of violence against children: poverty, structural adjustment, arms expenditure and national budgets, manifold discrimination, physical and mental damage, variations in age criteria and lax law enforcement. In regard to the sale of children, Mr. Muntarbhorn welcomed the finalization of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Its provisions were reinforced by the Declaration on the Rights of Children in Armed Conflicts (the Amsterdam Declaration). In regard to measures taken at the international level to address the issue of exploitative child labour, the expert mentioned ILO Convention No. 138, the International Convention on the Rights of All Migrant Workers and Members of Their Families and the adoption by the Commission on Human Rights at its 1993 session of the Programme of Action for the Elimination of the Exploitation of Child Labour. Concerning the issue of human organ transplantation, the expert recalled that WHO had issued a set of Guiding Principles on Human Organ Transplantation and that the European Parliament, in 1993, had passed a key resolution prohibiting trade in the transplantation of organs. As far as child prostitution and pornography were concerned, the expert, recalling the adoption by the Commission on Human Rights at its 1992 session of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Pornography,

noted that INTERPOL had established a Standing Working Party on Offences against Minors in order to deal with the growing phenomenon of trafficking in children for various purposes. Finally, Mr. Muntarbhorn pointed out the utmost importance of the Convention on the Rights of the Child, which had been ratified by the great majority of States Members of the United Nations, and the necessity of its effective implementation. The expert's conclusions are reflected in the section of this document concerning recommendations.

16. Marie-France Botte (Médecins sans Frontières, Bangkok) drew attention to sex tourism, defined as the sexual exploitation of children, both male and female, in developing countries, by paedophiles from richer countries. A large number of sexually exploited children come from minority groups; refugee children in particular were a category at risk. Her organization had decided to give priority to the protection of the girl child. The speaker also noted that, in order to obtain parental consent, trafficking in children for sexual purposes was often masked under other forms of exploitation, such as child labour. Finally, she stated that there were signs of increasing cooperation between NGOs, less developed and developed countries to counter effectively the exploitation of children for sexual purposes.

17. Mr. Henryk Handszuh (Chief, Quality of Tourism Services, World Tourism Organization) drew attention to the role of his organization in the prevention of the sexual exploitation of children. Recalling that the Manila Declaration on World Tourism of 1980 emphasized the spiritual aspects of the practice of tourism, he underlined that article IV (e) of the Tourism Bill of Rights and Tourist Code of 1985 called on States to "prevent any possibility of using tourism to exploit others for prostitution purposes". In this connection, the World Tourism Organization had been maintaining contacts with the Bangkok-based NGO ECPAT, in order to make a substantial contribution to the struggle against the sexual exploitation of children. The speaker stated that the widespread phenomenon of sex tourism had negative consequences for both tourist-sending and-receiving countries. The worst form of sex tourism took place when minors were the victims. Racist attitudes and bias, corruption, violation of juveniles' rights, related slave and clandestine labour were among the main factors leading to the perpetuation of the sexual exploitation of children which undermined the very values of tourism: social development, mutual understanding and strengthening of international solidarity. Finally, he reiterated the commitment of the World Tourism Organization to efforts to eliminate all forms of organized sex tourism and of child prostitution in particular.

18. The participants concurred that it was important to distinguish between the instrumental use of children in criminal activities, as in the case of child prostitution or the sale of children for the purpose of adoption, and the instrumental use of children for criminal activities, as in the case of drug trafficking or theft, as the response to the two types of exploitation must be very different. It was noted that the distinction became particularly relevant in responding to the instrumental use of children for criminal activities, where the child is being exploited precisely because of its age and because it was not criminally liable. At the same time, it was emphasized that the salient element still remained the misuse of the child and the ensuing victimization and traumatization.

19. Noting that many embassies have drug-related investigators attached to them with a view to fostering inter-State cooperation, several participants suggested that a similar approach might be adopted to more effectively address trafficking in children. Participants also stressed the importance of establishing new laws to cover child trafficking as an international crime, as some countries were not willing to extradite their nationals under existing conventions.

20. With regard to the traffic in children for the purpose of organ transplantation, participants noted a tendency to focus primarily on Central and Latin America, where most Governments denied that such practices occur, and at the same time a tendency to overlook the situation in South Asia, where in fact evidence had already been brought forward suggesting that such abuses were occurring. Notwithstanding the fact that some evidence had been uncovered, it was noted that because organ transplants using organs which had been privately procured were generally conducted in private clinics, it was extremely difficult to obtain access to information which would prove that such abuses were occurring. One participant stated that the use of children's organs was not limited to illegal transplantation, but that organs were also used for some traditional practices. For example, in areas of Africa the body parts of children were used in the preparation of some traditional medicines. Due to logistics, such abuses were essentially impossible to trace.

21. It was noted that the critical element with regard to sexual exploitation was the age of consent, the age threshold for the protection offered by the State to the child. States seeking to address the problem of paedophilia might opt, as an easy solution, to simply raise the age of consent. While it was true that very often the age of consent was set too low, therefore resulting in insufficient protection for the child, on the other hand, it was stressed that if the age of consent were set too high it might give rise to abuses and other violations of the rights of the child, given the fact that some States which had a very high age of consent also had extremely severe penalties for deflowering. Also mentioned were the difficulties entailed in establishing proof of consent. It was suggested that the Committee on the Rights of the Child should, in the near future, conduct a comparative study of ages of consent in different countries, examining concomitant benefits and difficulties of the different ages. The results of such a study could prove very useful in defining measures to address exploitation.

22. One participant while condemning exploitation, emphasized the importance of focusing on cultural relativity. If what was perceived to be exploitative labour practices were simply eliminated, a family or a child might be deprived of its sole means of livelihood and "social security", and the child of its emerging sense of self-worth by virtue of its daily responsibilities. It was therefore emphasized that negative action should not be introduced without corresponding positive action.

23. It was noted that many States still tended to regard children's rights not as inalienable human rights but as citizenship rights, pertaining therefore only to nationals. In doing so, they disregarded the rights of children of foreign nationalities, a practice which contravenes article 2 of the Convention on the Rights of the Child. Furthermore, one participant

recalled that notwithstanding existing instruments to prevent the exploitation of children, the electronic information age and the genetic era posed new challenges, necessitating a redefinition of what constituted child exploitation and the sale of children.

B. Instrumental use of juveniles for criminal activities

24. Mr. F. Palomba (Department of Justice, Italy) stated that the need to single out the instrumental use of juveniles in criminal activities and to subject the matter to specific, in-depth examination was the main aim of General Assembly resolution 45/115 adopted in 1990. All situations in which a juvenile engages in a criminal activity through coercion, instigation or enticement by an adult who profits from the juvenile's acts, would fall within the scope of the resolution. The preamble to the resolution underlined that the instrumental use of juveniles in criminal activities deprived children of their inherent right to childhood and adolescence by turning them into the tools of criminal organizations, with the result that such criminal activities and organizations were strengthened. The speaker drew attention to the recommendations contained in the resolution urging the Secretary-General and Member States to carry out ad hoc measures including undertaking research and a systematic analysis of the phenomenon, developing training and awareness programmes to sensitize personnel, applying appropriate sanctions and developing effective, preventive and remedial policies.

25. Ms. Carol Morency (Department of Justice, Canada) provided information on the measures taken by Canada to broaden its anti-crime measures to protect children and to maximize community participation in these efforts. A brief overview was presented of the ways in which Canada was addressing the issue of violence in society, including crime prevention and prevention of violence against children. The speaker described the several components making up the federal violence in society initiative: the community safety and crime prevention initiative, the federal family violence initiative, equality and safety issues for women and girls and the media violence strategy. With regard to the last component, a growing recognition existed in Canada of the negative impact of media violence, especially as regards desensitizing children to violence.

26. The exploitative use of children by adults in criminal activities in Canada occurred mainly in the sex trade. The co-opting of children into criminal activities was more likely to occur through rings, networks or organized crime for the purposes of child pornography and juvenile prostitution. Details were provided of the criminal law reforms introduced in Canada to protect children from activities such as child pornography, juvenile prostitution and from sexual abuse in general. The reforms had promoted children's rights by, for example, recognizing that children could be just as credible and reliable as witnesses as adults; the reforms had also accommodated the special needs of child victims/witnesses in the criminal justice system.

27. Concerning child sexual abuse, recent criminal law amendments provided children with increased protection from known and suspected child sex offenders by depriving those persons from opportunities or access to potential child victims.

28. In Canada, as a result of recent research, the legislation concerning the involvement of children in pornographic activities had created new offences prohibiting the possession and importation of child pornography and had increased the maximum sentences for production, sale and distribution of child pornography and possession for such purposes.

29. In respect of the issue of juvenile prostitution, a working group of experts had designated the problem as a priority area requiring closer analysis and consideration. Information was also provided on recent changes to the Criminal Code of Canada which created a new offence designed to extend domestic protection to children ordinarily resident in Canada, to prevent their removal from Canada by any person with the intention of committing sexual offences against them.

III. STANDARDS

A. Standards concerning children in conflict with the law

30. Ms. Santos Pais (Rapporteur, Committee on the Rights of the Child) stated that the Convention on the Rights of the Child was a landmark without precedent in the history of the United Nations. It had already been ratified or acceded to by 167 States. By ratifying or acceding to the Convention, States first of all endorsed the recognition of the fundamental rights of children. The Convention was of special importance in the light of its binding nature and in view of the provisions of its article 41 which requests States to apply the norms most conducive for the realization of the rights of the child.

31. The speaker identified the main provisions and principles of the Convention relevant to matters relating to the system of administration of juvenile justice. In that regard, the Convention contained standards incorporated in such instruments as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Children Deprived of their Liberty. Such a reality strengthened the value of juvenile justice standards as a whole, showing that there was no duality between human rights and juvenile justice.

32. The speaker also informed the participants that the Committee regularly raised the issue of the situation of children in the system of administration of juvenile justice during its dialogue with reporting States. The Committee was regularly confronted with situations where the death penalty and life imprisonment could be imposed for persons below 18 years of age; where flogging was envisaged as an educational measure; where deprivation of liberty was a common priority solution to face deviance or the illegal entry of a child into a country of asylum; and where legal safeguards did not apply when a child was suspected of being involved in terrorist activities. Consequently, emphasis was regularly placed on the measures taken by the State party to ensure the implementation of, among others, articles 37, 39 and 40 of the Convention in the light of its general principles as provided for in its articles 2, 3, and 12 which relate respectively to non-discrimination, the best interests of the child as applied to administrative or legal proceedings affecting the child and the right of the child to express his or her views and to have these views taken into account. Those principles, while having

autonomous value, guided the way each individual right should be ensured and respected. As an example of this she explained the relevance of the principle of non-discrimination to the determination of the age of criminal responsibility. It was imprecise and subjective to make the age of criminal responsibility dependent on the criteria of the attainment of puberty, and led to the application to children of the formal and complex justice system shaped for adults. The application of the best interests of the child principle to the administration of juvenile justice field implied that any child involved with this system would be treated in a manner consistent with the promotion of its sense of dignity and worth and would call for the consideration and establishment of laws, procedures and authorities specifically applicable to children; that was the reason to envisage a comprehensive child-oriented juvenile justice system. The third general principle of the Convention, contained in its article 12, related to the participation of children, recognizing the capacity of the child to lodge a complaint as a victim of ill-treatment or sexual abuse and its right to benefit from legal counselling or free legal assistance when participating in a judicial proceeding.

33. The Committee on the Rights of the Child, in its dialogue with States parties reporting under the Convention, frequently recommended to States parties that legal reform be undertaken, including that the age of criminal responsibility be set in the light of the principles of the Convention, in particular its articles 2 and 3. The Committee also called for the repeal of legislation permitting the death penalty, flogging or deprivation of liberty is the common response, in order to encourage the consideration of alternatives to institutional care. The Committee has also recommended to States parties that a national mechanism such as an ombudsperson for children be established to facilitate the participation of children and ensure that children's rights were upheld and that complaints made by children were independently investigated. In addition, the Committee has generally recommended to States parties that greater attention be paid to ensuring that the system of administration of juvenile justice in the State party was in conformity with the provisions of the Convention and other relevant international instruments. In order to facilitate the process of change, the Committee often suggested that international cooperation should be provided to States, including with respect to the provision of training on children's rights to judges, law enforcement officials, prosecutors, social workers and other professionals working within the juvenile justice system. The possibility of such assistance being offered by the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch was consistently highlighted. Finally, the speaker indicated that the Committee for its part intended to continue to play its monitoring role and also to act as a catalyst promoting all efforts to be undertaken, in a concerted manner, by the international community. In order to contribute to this function the Committee had decided to organize a thematic discussion on the subject of the administration of juvenile justice on 9 October 1995 which would be enlightened by the results of the present expert meeting. It was also to be hoped that the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the Commission on Human Rights, would give new impetus to this area.

34. Mr. Eduardo Vetere (Chief, Crime Prevention and Criminal Justice Branch) set out four points of relevance to the issue of standards concerning children

in conflict with the law. He stressed that technical cooperation activities aimed at the implementation of existing instruments could not be effective if recipient countries lacked political will. Furthermore, such technical cooperation activities required substantive follow-up, strong coordination among relevant donor agencies in order to avoid duplication, and, most importantly, funding commitments. He reminded participants that the Commission on Crime Prevention and Criminal Justice was a relatively young body, and was therefore still in the process of setting out its priorities for action. However, the Commission identified the issue of juvenile justice as one of high priority to be considered at its fourth session. Finally, he took the opportunity to refute the fallacy that a contradiction might exist between the field of crime prevention and criminal justice and the protection of human rights, recalling that both were grounded in the fundamental principle of the rule of law.

35. Re-emphasizing the need for an international and coordinated approach to these issues, he concluded his intervention by informing participants that these matters would be taken up again at the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 23-26 November 1994.

36. Ms. F. Blyth-Kubota (Centre for Human Rights) noted the importance of States parties using the preparation of their report under the Convention as an opportunity to ensure public discussion on policies relating to children and to encourage the widest participation of different entities in channelling information into this exercise. The Committee received information complementary to the State party report from various sources, including intergovernmental and non-governmental organizations, which assisted the Committee in developing a greater appreciation of the situation of children in a given country. While emphasizing that the discussion between the Committee and the State party of its report was important, the outcome being reflected in observations adopted by the Committee, the challenge was to make a reality of the recommendations contained in the Committee's observations. That required greater cooperation and coordination by all bodies and organizations, governmental, intergovernmental and non-governmental. The outcome of the present meeting would obviously be important in contributing to the ongoing process of cooperation in ensuring the effective implementation of the rights of the child.

B. Main issues concerning children in detention

37. Mr. E. Garcia Mendez (Regional Adviser on Children's Rights, UNICEF Regional Office for Latin America and the Caribbean) stated that in Latin America, for a long time, rather than considering juvenile delinquency as the result of a proven violation of criminal law, legal standards reflected a philosophy according to which every social problem had a corresponding detention structure; anti-social acts committed by minors were perceived as clear manifestations of pathological inclinations. Many Latin American and Caribbean countries had ratified the Convention on the Rights of the Child, thereby creating a "legal schizophrenia" due to the simultaneous existence in their legal systems of, on the one hand, an international instrument transformed into national law through parliamentary approval and, on the other hand, of a legislation based on a different legal approach.

38. The speaker analysed other characteristic issues relating to the matter of children in detention such as length of detention before and pending trial, least possible use of institutionalization, institutional treatment and separation of adults and juveniles in penal institutions. Unfortunately, violations of the provisions of the Convention on the Rights of the Child were unfortunately still common and persistent. In particular, some judges still considered temporary detention as a form of moderate and undeclared form of punishment. Institutional treatment structures seemed to lack the necessary rehabilitation services. Likewise, measures relating to the separation of juveniles and adults in penal institutions were widely disregarded.

39. Mrs. Ann Skelton (Lawyers for Human Rights in South Africa) made a statement concerning the development of juvenile justice in South Africa. In that country, a proper juvenile justice system did not exist. Since his election, President Mandela had shown particular interest in youth issues and, in particular, in the fate of detained juveniles. The legislative drafting process for juvenile justice, in which NGOs were deeply involved, was under way. The speaker mentioned a list of issues which could be considered the backbone of the future juvenile system in South Africa: (a) best interest of the young person a paramount consideration; (b) criminal proceedings should be not instituted against a juvenile if there was an alternative means of dealing with the matter; (c) anti-discrimination clause; (d) vulnerability of juveniles entitled them to special protection; (e) a young person had the right to express an opinion, be involved in all decisions and have his or her opinions taken seriously; (f) the great majority of children were treated as miniature versions of adult offenders; (g) emphasizing the role of the family and community; (h) guidelines for sanctions; (i) rights of the victim; (k) cultural sensitivity; (m) protection from publicity. She highlighted the proposals of her organization concerning issues such as the minimum age of criminal capacity, length of detention before and pending trial, the least possible use of institutionalization and the treatment in institutions. Pending the finalization and, ultimately, the adoption of a juvenile justice system, the reality was different. Very few white children came through the criminal justice system and rarely spent time in custody awaiting trial. Whipping was still a common punishment.

40. Participants agreed that the issue of child rights should be addressed in diverse forums, not just in those directly pertaining to child rights, because only such a holistic approach would ensure that those rights and the impact of policy-making in other areas on the rights of children would not to be overlooked.

41. Participants also agreed that in seeking to promote the welfare of the child, States should focus on the "rights" of the child and not on the "best interests" of the child. The latter concept was far too vague and subjective, thus giving rise to abuses and manipulation to serve other interests, thereby resulting in further exploitation.

42. Participants stressed that the child must be envisaged as a citizen of today, and not merely as an adult of tomorrow. The child has the right to express itself and to be heard. Advocates of children's rights must speak with the participation of children, and not for them. However, while the importance of the participation of the child should not be underestimated,

the reality of the capacity of children to participate should be examined. There is a need to explore what could be done for the majority of the children who did not possess the ability to express themselves, and to further explore means to reach those children who required much more protection than that already afforded them.

IV. IMPLEMENTATION OF UNITED NATIONS STANDARDS AND NORMS

A. Legislation and practice

43. Mr. Daniel O'Donnell (Human Rights consultant) addressed the implementation of United Nations standards regarding children in the administration of juvenile justice system, evaluating the trends and problems encountered in this field. He first of all provided a brief overview of the provisions of relevant United Nations standards in the field of children in conflict with the law and children deprived of their liberty as well as violence against children, sexual exploitation and criminal exploitation of children.

44. Focusing on the question of implementation, Mr. O'Donnell offered an assessment of the information on the administration of juvenile justice systems and violence against children contained, in particular, in the initial reports submitted by States parties to the Convention on the Rights of the Child. The information illustrated the nature of the problems in the field and the progress being made to bring national law and practice into greater conformity with international standards. In that regard it was noted, inter alia, that the factors and difficulties hindering greater compliance with the standards in the field of the administration of juvenile justice included: lack of adequate infrastructure and resources; lack of access to relevant information and methodologies; lack of clarity as to the meaning and practical implications of many of the principles enshrined in international standards; and need for greater commitment to the cause of children.

45. While recognizing that the main responsibility for implementing international standards lay with national Governments, suggestions were proffered as to the ways in which the international community could valuably contribute to the tasks of promoting and monitoring the rights of the child. In that regard, Mr. O'Donnell identified the Committee on the Rights of the Child, UNICEF, the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch as the bodies within the United Nations system most directly concerned with the questions of juvenile justice and child victims and pointed to the need for these bodies to develop a more comprehensive strategy in order to address those issues. Mention was made of their role in the provision of international technical cooperation. By way of illustration of the methodology and approach to developing successful technical cooperation programmes and processes, mention was made of activities which had been undertaken at the regional, subregional and national levels, particularly in Latin America. It was emphasized that technical cooperation should be a multi-dimensional process involving research and dissemination and training on international standards. It was indicated that research in particular was required to obtain reliable data so as to more accurately ascertain the real dimensions, causes and other characteristics of the phenomena which national legislation was intended to address.

46. Ms. Marcia V.J. Kran (Senior Associate, International Centre for Criminal Law Reform and Criminal Justice Policy) made a statement in relation to the role of regional institutions for the protection and the promotion of juveniles rights. One of the main activities of the regional institutions, as well as United Nations bodies, was the training of police and law officials for the correct implementation of the rule of law and of human rights standards. In that connection, the speaker mentioned a recent initiative of her institute for a training seminar on child prostitution directed at the United Nations peace-keeping forces in Mozambique. Setting up sound research programmes, which would definitively contribute to the proper implementation of international standards, should be another of the main activities of regional institutes. Finally, the speaker mentioned a bibliography on the effects of organized crime on women and children that her institution was finalizing and that could be an important resource tool for both research and action.

47. Mr. E. Kibuka (Acting Director, United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI)), stated that many African countries had obsolete juvenile justice legislation. The level of implementation of the various international instruments appeared to be low. UNAFRI had given priority to information collection and dissemination, to mobilizing public opinion and to surveying the situation, in particular concerning data collection, of juvenile justice for the region. The speaker remarked upon the importance of a correct approach to the political authorities, in order to make them aware of the existence of international instruments and of the need for their rapid and effective implementation. The speaker noted that the level of cooperation and collaboration among regional institutions and United Nations bodies needed to be improved. UNAFRI was cooperating particularly actively with UNICEF.

48. Mr. A. Dolguich (Chief, Educational Labour Colonies Division, Department of Penitentiary Institutions, Ministry of the Interior, Russian Federation) indicated that the system of criminal punishment was going through a reform process in his country. The existing correctional system, a remnant of the old regime, did not match with the newly created political, governmental, economic and social relations and institutions. The reform would take into consideration the international instruments concerning juvenile justice and crime prevention policies. The activity of the educational labour colonies was regulated by articles 74 to 78 of the Correctional Labour Institutions Code, Colony Regulations, Orders and Instructions of the Ministry. Annually, approximately 19,000 juveniles, 14-19 per cent of those who had committed crimes and were brought to trial, were detained in those colonies.

49. Mr. I.A. Daga (Human Rights adviser to Mr. Yassir Arafat) made a statement concerning the situation of the juvenile justice of Palestinian youth. Due to the Israeli occupation, the situation was particularly serious in Gaza. Despite very serious financial resource constraints, the Palestine authorities had established several departments which were concerned with the task of improving the situation of Palestinian juveniles. Many of them, imprisoned because of their participation in the intifada, were still detained in Israeli jails. The speaker warmly invited the participants in the meeting to visit Palestine in order to create and strengthen the spirit of cooperation and collaboration existing for the benefit of Palestinian youth.

B. Alternative models

50. Ms. Claudia Fenz (Justice, Juvenile Court of Vienna) drew attention to the Juvenile Justice Act of 1988, amended in 1993. The main characteristics of the Act were: (a) no life sentences; (b) no capital punishment; (c) a juvenile under the age of 16 can be sentenced to up to 10 years in prison; (d) a juvenile over 16 can be sentenced to up to 15 years in prison; (e) probation is commonly used; (f) penalties for juveniles are half of those imposed on adults; (g) children under the age of 14 cannot be held responsible, not even for the most severe crimes, and therefore cannot be detained. Furthermore, the Act established special juvenile courts in the larger cities and a special division for juveniles within the criminal courts. Another major achievement of the Act was the institution of extrajudicial compensation, a victim-offender mediation providing an unofficial setting in which the rights of the victim to satisfactory compensation were reinforced. Moreover, the possibility of extrajudicial compensation allowed for quick action. The Act provided the judge with still another range of possibilities: probation, which could be combined with other decisions, community service and court-ordered payment. Owing to their effectiveness, certain provisions of the Act were being tested in adult courts in Vienna.

51. Ms. J. Karp (Deputy Attorney-General of Israel) made a statement concerning the legislation relating to the treatment of juvenile offenders in Israel, which was made up of three instruments: the Youth (Trial, Punishment and Modes of Treatment) Law of 1971, which was a comprehensive arrangement of the criminal justice system for children; the Youth (Care and Supervision) Law of 1960, which was concerned with civil proceedings and powers with regard to children in need of protection and which included juvenile offenders who had not been brought to trial; the Law of Evidence Revision (Protection of Children) Law of 1955 which dealt with special procedures in relation to the evidence of young children, both offenders and victims of sexual crimes. Under the auspices of the Ministry of Labour and Social Welfare, other institutions such as the Youth Rehabilitation Service and the Service for Girls in Distress dealt with delinquent juveniles. The speaker underlined that, although Israeli legislation had always emphasized the notion of the "best interests of the child", the debate about the overall validity of that principle still raised questions.

52. Mr. G. Cappelaere (Children Rights Centre, Brussels) underlined the importance of alternatives to the juvenile justice system. Although experts agreed that the intervention of the juvenile justice system should be a measure of last resort, efforts had been made to make that system particularly attractive. Paradoxically, committing an offence and being punished could be very attractive for a deprived child because it would guarantee the help and support that was otherwise difficult to obtain. Consequently, particular emphasis should be given to prevention, which would avoid the intervention of the juvenile justice system. The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) which were adopted by the General Assembly in 1990 offered very concrete prevention strategies and policies. Several of its provisions were outlined, particularly where they highlighted the importance of comprehensive prevention plans; the promotion of strong social policies aimed at raising overall welfare and social well-being, including for children and juveniles; and the promotion of child-oriented

policies recognizing and enabling children to play an active role in society. The speaker drew particular attention to the reference within the Riyadh Guidelines to the preparation of a composite manual on juvenile justice standards, the establishment of independent mechanisms to defend the rights and interests of children such as a children's ombudsman, and the importance of the provisions and principles of the Convention on the Rights of the Child, including in view of its widespread ratification as well as of the reporting and monitoring system established in accordance with its provisions.

C. Raising of awareness and advocacy

53. Mrs. A. Mbaye (Association for the Protection of the Child, University of Senegal) made a statement concerning the situation of the awareness of matters relating to juvenile justice in Senegal, where an exhaustive set of legal provisions relating to children were incorporated into the penal system. The Ministry for Women, Children and the Family and the Ministry of Culture were in charge of the implementation of the Convention on the Rights of the Child. Several NGOs were active, in particular, the Senegalese Association for the Protection of Mentally Handicapped Children and the Daara de Malika, which dealt with the "talibés", children who were exploited by the local marabout or Koranic teacher. The speaker said the situation of detained juveniles in Senegal was serious: often juveniles were detained in the same facilities for adults and juvenile judges, who generally were not specialized in juvenile justice, were overloaded with work. A separate body within the Ministry of Justice was responsible for "Internats" and "semi-Internats", a type of secondary education institution which mainly played a preventive role by providing the child with his or her basic needs in terms of education and vocational training. The speaker underlined that the implementation of the Convention on the Rights of the Child was thwarted by the persistence of traditional practices and customs. Last but not least, the availability of financial resources should be assured by, inter alia, international cooperation through a relaxation of the pressure due to external debt and by the so-called "peace dividend".

54. Ms. J. Jilani (AGHS Law Association, Pakistan) highlighted the negative role played by the persistent condition of poverty, in which a large part of mankind lives, in the advancement of human rights. Structural changes, in order to be effectively implemented, needed a suitable economic, social and political framework. The speaker pointed out that in Pakistan there was no juvenile justice system: the same rules applied to adults, with a few exceptions in respect of detention, were valid for young people. Moreover, under Islamic Penal Law, for certain offences there was no minimum age of criminal responsibility. Gender discrimination was particularly evident in the definition of the majority age, which was identified as the age at which puberty is reached, with a maximum of 16 years for female children and a maximum of 18 years for male children. In this connection, the provisions and principles of the Convention on the Rights of the Child reflected the universality of human rights and the need to abolish any kind of gender discrimination. Finally, the speaker stated that the financial resources for projects in the field of juvenile justice could be found by diverting funds from other areas such as military expenditure.

55. It was stressed that children's rights were not safeguarded merely through the institution of legal safeguards, because the underlying culture which informed implementation remained unchanged. Enlistment of the media, schools and NGOs was vital to challenging cultural norms and values and to ensuring that legal safeguards were in fact implemented.

56. If used effectively, the media could serve as a primary means of consciousness-raising and public education, and could make available information on child rights issues on an international basis. If children are to help prevent violations of their rights, they need to be aware of just what their rights are. Participants emphasized the need to bring the issue of exploitation into the classroom, beginning at the primary school level, to teach children about their rights and how to prevent abuses. At the same time, children themselves should be allowed greater involvement in the planning of programmes aimed at the prevention of child exploitation.

57. NGOs are vital instruments for pressuring Governments to conform to international standards or to meet obligations already made. NGOs can also be very useful in a monitoring or "watchdog" capacity. Participants emphasized the need to be more open to NGOs in terms of technical assistance. Currently, funding for technical assistance in the area of human rights was channelled primarily through Governments, which all too often were themselves guilty of human rights abuses in the first place. Therefore, such resources might be much better spent if channelled through the relevant NGOs.

58. Participants agreed that often the problem of ensuring the rights of children lay not with the establishment of legal safeguards, but in a dearth of sound, quality law enforcement. Participants stressed that implementation required awareness, and awareness required training. At the same time, participants emphasized the need to address the teaching methodologies used at training seminars. In teaching about human rights and protection as provided by international instruments, trainers should interactively involve trainees through case studies, rather than conforming to a static teacher-student dynamic.

59. Participants also cautioned on the use of community or "self-help" measures, notwithstanding the trend towards privatization advocated in the international arena. A serious shortcoming of such informal institutions was that they were not accountable to the public through official and established channels, and therefore community security forces might violate rules without fear of sanction.

Recommendations

I. STANDARD SETTING AND IMPLEMENTATION

A. Measures of general application

1. We call upon all States which have not yet done so to ratify the Convention on the Rights of the Child and ensure its effective implementation.

2. We urge States to fully reflect the principles and provisions of the Convention on the Rights of the Child, the United Nations Guidelines for the

Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty in their national legislation and practice, in particular by establishing a child-oriented juvenile justice system, whether criminal, civil or other, which guarantees the rights of children and promotes their sense of dignity and worth, fully respects their age and their right to fully participate in and contribute to society.

3. We request all States to make the provisions of these instruments widely known to children in child-accessible language, and to adults and professional groups working with and for children.

4. We recognize the importance of a comprehensive national approach in the area of juvenile justice respecting the interdependence and indivisibility of all of the rights of the child.

5. We call on States to integrate into the school curricula, particularly at the primary school level, education on the Convention on the Rights of the Child. We further suggest that awareness be raised by other appropriate means, including the provision of information by campaigns on the rights of the child. We request all States to accord priority to the effective training of all those involved in the field of juvenile justice.

6. We urge States to guarantee those rights and to give the highest priority to the prevention of the violation of the rights of the child, including those arising in the area of juvenile justice. To this end the child should be clearly recognized as an active and responsible participant in society.

7. We urge States to adopt all necessary measures to ensure the non-derogability of fundamental children's rights and freedoms, including the freedom from discrimination; the right to life; the freedom from torture or other cruel, inhuman or degrading treatment or punishment; the freedom from any form of slavery or exploitation; the freedom of thought, conscience and religion; the right to be recognized as a person before the law; the right to be protected against retroactive penal laws; and the right to full benefit of all legal safeguards in the juvenile system as recognized in all relevant international instruments.

8. We recommend that States give serious consideration to the establishment of an independent mechanism, such as an ombudsperson, to ensure that the rights and best interests of the child are upheld in the light of existing international standards.

9. As a measure towards improving quality of life and to ensure greater social justice for all as a protection against exploitation, elimination of poverty must be addressed with a sustained strategy, both in national and international settings. States as well as international organizations such as the World Bank and the International Monetary Fund should reappraise development policies and programmes to integrate child development and protection more concretely into their implementation and to ensure greater

equity, income distribution and resource allocation, including land reform and budget restructuring for needy children and their families. "Child impact assessment" indicators and tests should be incorporated into all international, national and local development programmes.

B. Specific targets

10. We call upon all States to translate into practice, by the year 2000, the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

11. We request all States to ensure that the Convention on the Rights of the Child, the Riyadh Guidelines, the Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty are translated into all national and ethnic languages, and are widely disseminated in respective national territories by the year 2000.

12. We urge States to ensure that all judges, lawyers, prosecutors, social workers and other professionals concerned with juvenile justice matters receive human rights and juvenile justice training by the year 2000.

13. We further urge States to incorporate the Convention on the Rights of the Child as well as international juvenile justice instruments as an integral part of all police training at least by the year 2000. Given that children's rights should be guaranteed to every child under the entire jurisdiction of the State, we see particular need for immigration officers to also receive such training by the year 2000.

II. COORDINATION AND TECHNICAL COOPERATION

14. We urge that the field of juvenile justice be given priority within the United Nations system-wide action, in particular by the Commission on Crime Prevention and Criminal Justice and the Commission on Human Rights, the Committee on the Rights of the Child and UNICEF.

15. In this regard, we recognize the urgent need for close cooperation between all bodies and mechanisms concerned with this field, including the Committee on the Rights of the Child, the Crime Prevention and Criminal Justice Branch, the Centre for Human Rights and UNICEF. Such cooperation should be strengthened particularly with regard to research, dissemination of information, training, implementation and monitoring of existing standards, as well as in the provision of technical assistance programmes.

16. The effective implementation of international standards in technical cooperation and advisory services programmes should be ensured by giving particular attention to the following aspects related to protecting and promoting human rights of juveniles in detention, strengthening the rule of law and improving the administration of the juvenile justice system:

(a) Strengthening national capacities and infrastructures;

(b) Training programmes for judges, prosecutors, lawyers, administrators, social workers and other professionals dealing with juvenile justice;

(c) Training programmes for law enforcement officials.

17. In the elaboration of such programmes, the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch should take into consideration the recommendations of relevant bodies of the United Nations system, in particular those of the Committee on the Rights of the Child, and take them into account in the execution of these programmes as well as in appropriate follow-up activities.

18. In accordance with his mandate, the High Commissioner for Human Rights, in close cooperation with the Crime Prevention and Criminal Justice Branch, the Committee on the Rights of the Child and UNICEF, should develop strategies in order to ensure effective coordination of the respective technical cooperation programmes in the field of juvenile justice.

19. Projects under these programmes should be executed on the basis of needs assessments and should include appropriate evaluation and follow-up procedures, preferably by methods of accompanying action research, with the participation of children. Regional institutes, UNICEF and other relevant bodies as well as national institutions and non-governmental organizations should be an integral part of these activities.

20. We stress the importance of adequate financial and human resources for such programmes. In this context, we underline the need of adequate preparation of the missions of the United Nations Interregional Advisers in crime prevention and criminal justice through needs assessment missions as well as through appropriate follow-up for comprehensive projects.

21. We recommend that the United Nations crime prevention and criminal justice programme publish and widely distribute a manual on standards of juvenile justice as a matter of priority, in cooperation with the Centre for Human Rights and UNICEF, and that adequate funding be provided for this purpose.

22. In view of the need to strengthen the monitoring capacity of the United Nations system in the field of juvenile justice, we urge States parties to the Convention on the Rights of the Child to provide in their periodic reports to the Committee comprehensive information on the implementation of the provisions of the Convention and related United Nations standards adopted in this field, in particular the Riyadh Guidelines, the Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

23. Furthermore, appreciating the establishment of a working group to monitor the application of United Nations norms and standards in crime prevention and criminal justice, we urge the Commission on Crime Prevention and Criminal Justice to introduce juvenile justice standards into the process of information gathering and to request States to submit information to the sixth session of that Commission on the way such United Nations norms and

standards are effectively implemented at the national level, the difficulties encountered and the solutions envisaged to remedy the existing shortcomings.

24. We urge that due attention be paid to a periodic exchange of all of the information gathered between all those United Nations bodies concerned, always maintaining close cooperation with non-governmental organizations and other relevant entities.

III. CHILDREN AND JUVENILES DEPRIVED OF THEIR LIBERTY

25. We call upon the Commission on Crime Prevention and Criminal Justice, the Commission on Human Rights, through its relevant mechanisms, and the Committee on the Rights of the Child to organize joint periodic missions to visit facilities where juveniles are deprived of their liberty or otherwise restricted. In this regard, we invite the Secretary-General to provide the necessary means to effectively organize and carry out such missions, as well as to ensure an appropriate follow-up to them.

26. We urge States to ensure easy access by relatives, non-governmental organizations and interested individuals to facilities where juveniles are deprived of their liberty or otherwise restricted, in order to maintain a link between the detained juvenile and his or her family and community, to facilitate his or her social reintegration and to allow for monitoring and reporting on the conditions in these facilities. We urge States to allow independent monitoring bodies access to such facilities.

27. We call upon States, intergovernmental and non-governmental organizations to raise awareness of situations for juveniles deprived of their liberty and, in particular, on the high rate of juveniles on remand and the length of periods for which they are held in custody. In addition, the conditions under which juveniles are deprived of their liberty need to be highlighted with emphasis on, inter alia, overcrowding, lack of programmes for useful activities and exercise, the frequency of physical and sexual assault and the corresponding risk of HIV infection.

28. In order to ensure greater compliance with international standards concerning the rights of children, States are urged to take, inter alia, the following measures:

(a) Ensuring that legislation concerning the age of criminal responsibility, civil majority and consent does not have the effect of depriving any child of the full enjoyment of the rights recognized by the Convention on the Rights of the Child;

(b) Giving priority to setting up agencies and programmes to provide free legal and other assistance to children, and in particular, to ensure that the right of every child to automatically receive such assistance from the moment of arrest is respected in practice;

(c) Taking appropriate steps to make available throughout the country a broad range of alternative measures in order to ensure compliance with the principle that deprivation of liberty should only be used as a measure of last resort, both before trial and after conviction;

(d) Recognizing that the best interests of the child must be a primary consideration in all decisions and that any deprivation of liberty should be for the shortest appropriate period of time, indeterminate sentences should never be applicable to persons below the age of 18 and children should never be kept in closed institutions under a welfare pretext;

(e) Prohibiting legislation from allowing the application of the death penalty or life imprisonment to persons under the age of 18 at the time of the commission of the offence.

29. We urge States to adopt all necessary measures to prevent, forbid and eliminate the use of corporal punishment against children. In the light of existing international standards, we reaffirm that States should establish mechanisms to ensure a prompt, thorough and impartial investigation into allegations against public officials of violation of the fundamental rights and freedoms of children and to ensure that the findings of any such investigation are made public without delay and that those found responsible are duly punished.

30. We call on States to allow access through the judicial system to fair and adequate compensation for all child victims of violations of human rights, including torture and other cruel, inhuman or degrading treatment or punishment, unlawful or arbitrary deprivation of liberty, unjustifiable detention and miscarriage of justice. Necessary legal representation to bring an action within an appropriate court should be provided at State expense.

31. In all cases of deprivation of the liberty of a child, human rights and legal safeguards recognized by the Convention on the Rights of the Child and other relevant United Nations standards should be fully applied within the legal framework, including those elements relating to immigration. In this regard, special attention should be paid to the situation of unaccompanied minors and others who are internationally displaced. The same principles should be reflected in the revised text of the 1961 Hague Convention on Protection of Minors which is currently under review. In accordance with the principles of deinstitutionalization and decriminalization, we urge States to examine these principles, giving particular attention to children in especially difficult circumstances.

IV. INSTRUMENTAL USE OF CHILDREN AND JUVENILES BY ADULTS IN AND FOR CRIMINAL ACTIVITIES

32. We recommend that systematic research into the causes and effects of the phenomenon of the instrumental use of children in and for criminal activities be undertaken, for the purpose of providing policy and decision makers with profound information and guidance which will serve as the basis for the formulation of international and regional strategies and measures to prevent and control such practices. Such research should entail, inter alia, the delineation of typologies of criminal activities in which children are instrumentally used, and the collection, dissemination and exchange of relevant information through electronic networking, including laws, policies, programmes and practices and successful pilot and demonstration projects.

33. The training of law enforcement and other justice personnel, as well as policy makers, should seek to sensitize these professionals to those situations of social risk which cause children to be manipulated by adults to engage in criminal activities.

34. The non-governmental sector active in the field of children's rights should receive every encouragement, both at the national and the international level, in their public awareness-raising campaigns and in their efforts to provide direct services or access to communities and social services for exploited children.

35. The mass media must be invited to engage in public awareness-raising activities to sensitize public opinion to the plight, special circumstances and vulnerability of children used as instruments of crime. At the same time, the mass media should be encouraged not to depict crime and violence as adventure, but to portray it in a responsible, serious manner.

36. Initiatives such as the provision of telephone hotlines, safe houses and emergency houses should be encouraged and made easily accessible to children.

37. We recommend that States should give greater attention to the development of educational programmes, to increase the accessibility of children, especially disadvantaged children, to educational facilities, including non-formal and part-time education. States should also establish innovative incentives to decrease school drop-out rates through assistance for families in need, such as the provision of free meals and textbooks and instruction in minority languages.

38. States should establish and promote adult education programmes to teach parents about the value of education, including education on child rights, and to encourage parental support for their children's education. States should establish and support education programmes for children to promote in them a respect for human rights and the rule of law.

39. We urge States to establish qualitative and quantitative indicators to monitor the exploitation of children and their instrumental use in and for criminal activities.

40. Recognizing that a root cause of the instrumental use of children in and for criminal activities is adult criminality, communities should be mobilized to protect children through "community watch" programmes. At the same time, States should pay particular attention to ensuring that such community-based measures conform to the rule of law, and establish safeguards to this effect.

41. We urge States and national and international organizations to initiate a pro-child-anti-crime network with INTERPOL, national police, immigration and law enforcement agencies, and community groups to guard against the instrumental use of children in and for criminal activities. In order to promote a rapid and effective communication as well as to promote consistent vigilance and relevant action, each entity in this network should have a focal point dealing with the exploitation of children in child prostitution and child pornography.

42. States and national and international organizations should highlight the responsibility of both the organizer and customer in child exploitation through national and international campaigns. This implies, in particular, a call to incriminate customers of child victims of prostitution and those who make, distribute or possess child pornography.

V. EXPLOITATION OF CHILDREN

43. With regard to the exploitation of children by adults, we call upon all Governments to ensure, if they have not already done so, that all international norms and standards designed to protect the child against such abuses are thoroughly reflected in regional, national and local legislation and practice. We call upon the judiciary and law enforcement agencies to ensure, as a matter of strengthening the rule of law, that such legislation is consistently applied.

44. We urge States to enforce their laws relating to exploitation of children, including trafficking in and sexual exploitation of children and exploitation of child labour. In particular, we urge States to apply due diligence to prevent and investigate such acts of exploitation against children and to ensure that appropriate sanctions are applied against the adults who exploit the children, rather than against the children who are victims of such crimes.

45. We urge States, supported by the United Nations interregional, regional and affiliated institutes, to develop multidisciplinary training, education and information activities for law enforcement and other criminal justice personnel, as well as for those in other relevant professions such as health care and early childhood and primary education, on the sexual exploitation of children including the activities of paedophiles and paedophile networks.

46. We urge States, in the absence of existing laws, to adopt legislation to punish and redress the wrongs caused to children who are exploited, including making trafficking in children and sexual exploitation of children outside the country by nationals and permanent residents offences.

47. The United Nations should develop a Code of Conduct on Child Rights for United Nations Peace-keeping Operations to prevent United Nations personnel from becoming involved in child exploitation, and this should become an integral and necessary element of training for all such personnel before embarking on any mission.

48. We request States to establish legal, administrative and institutional measures to combat sex tourism. We encourage the World Tourism Organization, the Centre for Human Rights, the Crime Prevention and Criminal Justice Branch and UNICEF to cooperate more closely on the establishment of a network which aims at the identification and elimination of all forms of sex tourism. The WTO in particular is encouraged to continue its efforts to combat organized sex tourism by different activities, especially by adopting the draft declaration on organized sex tourism. Its members are urged to respect this declaration, and to assist the WTO in its relevant activities.

49. States should encourage exchange programmes between law enforcement personnel and other bilateral exchanges to deal with transnational trafficking in children. Such programmes might, for example, also entail the stationing of police personnel of one country in other countries to track nationals of the former where they may be a threat to the children of the latter. Such cooperation may be facilitated by the increased exchange of information, such as lists of known paedophiles and crime-linked data, in conformity with data protection legislation. Close cooperation with regard to transnational activities of these networks needs to be established or fostered between Member States in order to establish an international tracking mechanism.

50. We urge States to ensure that children who have been sexually exploited or who are at risk of being sexually exploited have access to assistance that meets their needs, including access to the mechanisms of justice such as legal aid, adequate and safe housing, support services, economic assistance, counselling and health and social services to promote their safety, social reintegration and physical and psychological recovery. Special assistance should be given to those children who are suffering from HIV/AIDS and should include measures to protect them against discrimination and other harm. Emphasis should be placed upon family-based and community-based rehabilitation rather than institutionalization.

51. Where children are trafficked across frontiers, States, national and international organizations should ensure that the true age of the children is ascertained by independent and objective assessment, preferably with the cooperation of the non-governmental sector. This depends, in part, upon effective birth registration of all children in their country of origin. If they are to be returned to the country of origin, their safety must be guaranteed by independent monitoring and follow-up. Pending their return to the country of origin, they should not be treated as illegal migrants by the receiving countries, but should be dealt with humanely as special cases of humanitarian concern. Upon the return of the children, the country of origin should treat them with respect and in accordance with the international human rights principles, backed up by adequate family-based rehabilitation measures.

52. National laws should explicitly prohibit the exploitation of children for organ transplants, bearing in mind the WHO Guiding Principles on this issue. States and national and international organizations should ensure effective monitoring of organ transplantation, in particular the role of the private sector and clinics, in order to prevent abuses. In this connection, the medical sector and related professional organizations should be mobilized to report on abuses.

53. States and national and international organizations should ensure public education, including measures aimed at children, on the dangers of child exploitation, in particular child prostitution and other manifestations of the instrumental use of children in and for criminal activities.

54. A central registry of all missing children should be established in every country, and transfrontier exchanges of information should be fostered to trace and monitor the cases concerned.

55. States and national and international organizations, including the private business sector, should be encouraged to prepare and adopt a "Business Code on Child Protection" as a basic standard for their conduct towards children in order to counter child abuse, neglect and exploitation. Peer pressure should be exerted on the members of the business community, including transnational corporations, to respect the rights of the child.

56. States and national and international organizations should address the fact that legislation should be periodically reviewed to counter the use of new forms of technology for the purposes of child exploitation.

57. As the sale of children, child prostitution and child pornography are becoming increasingly transnational in character, States should expand extradition arrangements, mutual assistance agreements and other forms of inter-State cooperation to facilitate interchanges.

58. States and national and international organizations should foster changes to traditions which perpetuate child exploitation, not only through the enactment of legislation but also by educational measures and consciousness-raising.

Annex

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